

AMENDED IN ASSEMBLY AUGUST 24, 2012

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN ASSEMBLY JUNE 18, 2012

AMENDED IN SENATE JANUARY 26, 2012

AMENDED IN SENATE MAY 24, 2011

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AMENDED IN SENATE MARCH 30, 2011

SENATE BILL

No. 924

Introduced by Senators Price, Walters, and Steinberg

(Coauthors: Assembly Members Chesbro, Fong, Knight, Morrell, and
Wieckowski)

February 18, 2011

An act to amend Sections 2406 and 2690 of, and to add Sections 1052, 2406.5, 2620.1, and 2694.5 to, the Business and Professions Code, and to amend Section 13401.5 of the Corporations Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 924, as amended, Price. Physical therapists: direct access to services: professional corporations.

(1) Existing law, the Physical Therapy Practice Act, creates the Physical Therapy Board of California and makes it responsible for the licensure and regulation of physical therapists. The act defines the term "physical therapy" for its purposes and makes it a crime to violate any of its provisions.

This bill would specify that patients may access physical therapy treatment directly, and would, in those circumstances, require a physical therapist to refer his or her patient to another specified healing arts practitioner if the physical therapist has reason to believe the patient has a condition requiring treatment or services beyond that scope of practice, and, with the patient's written authorization, to notify the patient's primary physician and surgeon, if any, that the physical therapist is treating the patient. The bill would prohibit a physical therapist from treating a patient beyond 30 business days or 12 visits, whichever occurs first, ~~unless the patient obtains a diagnosis~~ *physical therapist receives a specified authorization or medical diagnosis* from a person with a physician and surgeon's certificate or from a person with a podiatric medicine certificate and acting within his or her scope of practice. The bill would require a physical therapist, prior to the initiation of treatment services, to provide a patient with a specified notice concerning the limitations on the direct treatment services.

(2) Existing law regulating professional corporations provides that certain healing arts practitioners may be shareholders, officers, directors, or professional employees of a medical corporation—~~or~~, a podiatric medical corporation, *or a chiropractic corporation*, subject to certain limitations.

This bill would add licensed physical therapists and licensed occupational therapists to the list of healing arts practitioners who may be shareholders, officers, directors, or professional employees of those corporations. The bill would also provide that specified healing arts licensees may be shareholders, officers, directors, or professional employees of a physical therapy corporation. The bill would require, except as specified, that a medical corporation, podiatry corporation, *chiropractic corporation*, and physical therapy corporation provide patients with a specified disclosure notifying them that they may seek physical therapy treatment services from any physical therapy provider. The bill would also make conforming changes to related provisions.

Because the bill would specify additional requirements under the Physical Therapy Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that an
2 individual's access to early intervention to physical therapy
3 treatment may decrease the duration of a disability, reduce pain,
4 and lead to a quicker recovery.

5 SEC. 2. *Section 1052 is added to the Business and Professions*
6 *Code, to read:*

7 1052. *A chiropractic corporation that is authorized to render*
8 *professional services, as defined in Sections 13401 and 13401.5*
9 *of the Corporations Code, shall disclose to its patients, orally and*
10 *in writing, when initiating any physical therapy treatment services,*
11 *that the patient may seek physical therapy treatment services from*
12 *a physical therapy provider of his or her choice who may not*
13 *necessarily be employed by the chiropractic corporation.*

14 ~~SEC. 2.~~

15 SEC. 3. Section 2406 of the Business and Professions Code is
16 amended to read:

17 2406. A medical corporation or podiatry corporation is a
18 corporation that is authorized to render professional services, as
19 defined in Sections 13401 and 13401.5 of the Corporations Code,
20 so long as that corporation and its shareholders, officers, directors,
21 and employees rendering professional services who are physicians
22 and surgeons, psychologists, registered nurses, optometrists,
23 podiatrists, chiropractors, acupuncturists, naturopathic doctors,
24 physical therapists, occupational therapists, or, in the case of a
25 medical corporation only, physician assistants, marriage and family
26 therapists, or clinical social workers, are in compliance with the
27 Moscone-Knox Professional Corporation Act, the provisions of
28 this article, and all other statutes and regulations now or hereafter
29 enacted or adopted pertaining to the corporation and the conduct
30 of its affairs.

31 With respect to a medical corporation or podiatry corporation,
32 the governmental agency referred to in the Moscone-Knox
33 Professional Corporation Act is the board.

1 ~~SEC. 3.~~

2 *SEC. 4.* Section 2406.5 is added to the Business and Professions
3 Code, to read:

4 2406.5. (a) A medical corporation or podiatry corporation that
5 is authorized to render professional services, as defined in Sections
6 13401 and 13401.5 of the Corporations Code, shall disclose to its
7 patients, orally and in writing, when initiating any physical therapy
8 treatment services, that the patient may seek physical therapy
9 treatment services from a physical therapy provider of his or her
10 choice who may not necessarily be employed by the medical or
11 podiatry corporation.

12 (b) This disclosure requirement shall not apply to any medical
13 corporation that contracts with a health care service plan with a
14 license issued pursuant to the Knox-Keene Health Care Service
15 Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340)
16 of Division 2 of the Health and Safety Code) if the licensed health
17 care service plan is also exempt from federal taxation pursuant to
18 Section 501(c)(3) of the Internal Revenue Code.

19 ~~SEC. 4.~~

20 *SEC. 5.* Section 2620.1 is added to the Business and Professions
21 Code, to read:

22 2620.1. (a) In addition to receiving wellness and evaluation
23 services from a physical therapist, a person may initiate physical
24 therapy treatment directly from a licensed physical therapist
25 provided that the treatment is within the scope of practice of
26 physical therapists, as defined in Section 2620, and that all the
27 following conditions are met:

28 (1) If, at any time, the physical therapist has reason to believe
29 that the patient has signs or symptoms of a condition that requires
30 treatment beyond the scope of practice of a physical therapist, the
31 physical therapist shall refer the patient to a person holding a
32 physician and surgeon's certificate issued by the Medical Board
33 of California or by the Osteopathic Medical Board of California
34 or to a person licensed to practice dentistry, podiatric medicine,
35 or chiropractic.

36 (2) The physical therapist shall comply with Article 6
37 (commencing with Section 650) of Chapter 1 of Division 2.

38 (3) With the patient's written authorization, the physical
39 therapist shall notify the patient's primary physician and surgeon,
40 if any, that the physical therapist is treating the patient.

(4) With respect to a patient initiating physical therapy treatment services directly from a physical therapist, the physical therapist shall not continue treating that patient beyond 30 business days or 12 visits, whichever occurs first, without ~~the patient obtaining a diagnosis receiving~~, from a person holding a physician and surgeon's certificate from the Medical Board of California or the Osteopathic Medical Board of California, or from a person holding a certificate to practice podiatric medicine from the California Board of Podiatric Medicine and acting within his or her scope of practice, *a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care, or a medical diagnosis, by a person holding a physician and surgeon's certificate from the Medical Board of California or the Osteopathic Medical Board of California, or by a person holding a certificate to practice podiatric medicine from the California Board of Podiatric Medicine and acting within his or her scope of practice.* For purposes of this paragraph, "business day" means any calendar day except Saturday, Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

(b) The conditions in paragraphs (3) and (4) of subdivision (a) do not apply to a physical therapist when providing evaluation or wellness physical therapy services to a patient as described in subdivision (a) of Section 2620 or treatment provided upon referral or diagnosis by a physician and surgeon, podiatrist, dentist, chiropractor, or other appropriate health care provider acting within his or her scope of practice. Nothing in this subdivision shall be construed to alter the disclosure requirements of Section 2406.5.

(c) Nothing in this section shall be construed to expand or modify the scope of practice for physical therapists set forth in Section 2620, including the prohibition on a physical therapist diagnosing a disease.

(d) Nothing in this section shall be construed to require a health care service plan, insurer, workers' compensation insurance plan, or any other person or entity, including, but not limited to, a state program or state employer, to provide coverage for direct access to treatment by a physical therapist.

(e) When a person initiates physical therapy treatment services directly pursuant to this section, the physical therapist shall not

1 perform physical therapy treatment services without first providing
2 the following written notice, orally and in writing, on one page,
3 in at least 14-point type, and obtaining a patient signature on the
4 notice:

5
6 Direct Physical Therapy Treatment Services
7

8 ~~You are receiving direct physical therapy treatment services~~
9 ~~from an individual who is not a physician, but who is a physical~~
10 ~~therapist licensed by the Physical Therapy Board of California.~~

11 ~~Some health plans and insurers will not pay for direct physical~~
12 ~~therapy treatment services without a medical diagnosis or referral.~~
13 ~~Please check with your health plan or insurer if you have questions~~
14 ~~about coverage for direct physical therapy treatment services.~~

15 ~~Under California law, you may continue to receive direct~~
16 ~~physical therapy treatment services for an initial period without~~
17 ~~obtaining a diagnosis from a physician or podiatrist. This initial~~
18 ~~period is 30 business days or 12 visits, whichever occurs first. In~~
19 ~~order for a physical therapist to continue treating you beyond this~~
20 ~~initial period, you must obtain a diagnosis from a physician or~~
21 ~~podiatrist.~~

22 ~~If you have received direct physical therapy treatment services~~
23 ~~from a physical therapist for the initial period of 30 business days~~
24 ~~or 12 visits, whichever occurs first, it may constitute unprofessional~~
25 ~~conduct for that physical therapist to continue treating you beyond~~
26 ~~this initial period without a diagnosis from a physician or podiatrist.~~

27 ~~*You are receiving direct physical therapy treatment services*~~
28 ~~*from an individual who is not a physician, but who is a physical*~~
29 ~~*therapist licensed by the Physical Therapy Board of California.*~~

30 ~~*Under California law, you may continue to receive direct*~~
31 ~~*physical therapy treatment services for a period of 30 business*~~
32 ~~*days or 12 visits, whichever occurs first, after which time a physical*~~
33 ~~*therapist may continue providing you with physical therapy*~~
34 ~~*treatment services only after receiving, from a person holding a*~~
35 ~~*physician and surgeon's certificate issued by the Medical Board*~~
36 ~~*of California or by the Osteopathic Medical Board of California,*~~
37 ~~*or from a person holding a certificate to practice podiatric*~~
38 ~~*medicine from the California Board of Podiatric Medicine and*~~
39 ~~*acting within his or her scope of practice, a dated signature on*~~

1 *the physical therapist's plan of care indicating approval of the*
2 *physical therapist's plan of care, or a medical diagnosis.*

3 *If you have received direct physical therapy treatment services*
4 *for a duration of 30 business days or 12 visits, whichever occurs*
5 *first, from a physical therapist, it may constitute unprofessional*
6 *conduct for that physical therapist or for another physical therapist*
7 *to provide direct physical therapy treatment services without*
8 *receiving from a person holding a physician and surgeon's*
9 *certificate issued by the Medical Board of California or by the*
10 *Osteopathic Medical Board of California, or from a person holding*
11 *a certificate to practice podiatric medicine from the California*
12 *Board of Podiatric Medicine and acting within his or her scope*
13 *of practice, a dated signature on the physical therapist's plan of*
14 *care indicating approval of the physical therapist's plan of care,*
15 *or a medical diagnosis.*

16
17
18 [Patient's Signature/Date]

19
20 ~~SEC. 5:~~

21 *SEC. 6.* Section 2690 of the Business and Professions Code is
22 amended to read:

23 2690. A physical therapy corporation is a corporation that is
24 authorized to render professional services, as defined in Sections
25 13401 and 13401.5 of the Corporations Code, so long as that
26 corporation and its shareholders, officers, directors, and employees
27 rendering professional services who are physical therapists,
28 physicians and surgeons, podiatrists, acupuncturists, naturopathic
29 doctors, occupational therapists, speech-language pathologists,
30 audiologists, registered nurses, psychologists, *chiropractors*, and
31 physician assistants are in compliance with the Moscone-Knox
32 Professional Corporation Act, this article, and all other statutes
33 and regulations now or hereafter enacted or adopted pertaining to
34 the corporation and the conduct of its affairs.

35 With respect to a physical therapy corporation, the governmental
36 agency referred to in the Moscone-Knox Professional Corporation
37 Act is the board.

38 ~~SEC. 6:~~

39 *SEC. 7.* Section 2694.5 is added to the Business and Professions
40 Code, to read:

1 2694.5. A physical therapy corporation that is authorized to
2 render professional services, as defined in Sections 13401 and
3 13401.5 of the Corporations Code, shall disclose to its patients,
4 orally and in writing, when initiating any physical therapy treatment
5 services, that the patient may seek physical therapy treatment
6 services from a physical therapy provider of his or her choice who
7 may not necessarily be employed by the physical therapy
8 corporation.

9 ~~SEC. 7.~~

10 *SEC. 8.* Section 13401.5 of the Corporations Code is amended
11 to read:

12 13401.5. Notwithstanding subdivision (d) of Section 13401
13 and any other provision of law, the following licensed persons
14 may be shareholders, officers, directors, or professional employees
15 of the professional corporations designated in this section so long
16 as the sum of all shares owned by those licensed persons does not
17 exceed 49 percent of the total number of shares of the professional
18 corporation so designated herein, and so long as the number of
19 those licensed persons owning shares in the professional
20 corporation so designated herein does not exceed the number of
21 persons licensed by the governmental agency regulating the
22 designated professional corporation:

23 (a) Medical corporation.

24 (1) Licensed doctors of podiatric medicine.

25 (2) Licensed psychologists.

26 (3) Registered nurses.

27 (4) Licensed optometrists.

28 (5) Licensed marriage and family therapists.

29 (6) Licensed clinical social workers.

30 (7) Licensed physician assistants.

31 (8) Licensed chiropractors.

32 (9) Licensed acupuncturists.

33 (10) Naturopathic doctors.

34 (11) Licensed professional clinical counselors.

35 (12) Licensed physical therapists.

36 (13) Licensed occupational therapists.

37 (b) Podiatric medical corporation.

38 (1) Licensed physicians and surgeons.

39 (2) Licensed psychologists.

40 (3) Registered nurses.

- 1 (4) Licensed optometrists.
- 2 (5) Licensed chiropractors.
- 3 (6) Licensed acupuncturists.
- 4 (7) Naturopathic doctors.
- 5 (8) Licensed physical therapists.
- 6 (9) Licensed occupational therapists.
- 7 (c) Psychological corporation.
- 8 (1) Licensed physicians and surgeons.
- 9 (2) Licensed doctors of podiatric medicine.
- 10 (3) Registered nurses.
- 11 (4) Licensed optometrists.
- 12 (5) Licensed marriage and family therapists.
- 13 (6) Licensed clinical social workers.
- 14 (7) Licensed chiropractors.
- 15 (8) Licensed acupuncturists.
- 16 (9) Naturopathic doctors.
- 17 (10) Licensed professional clinical counselors.
- 18 (d) Speech-language pathology corporation.
- 19 (1) Licensed audiologists.
- 20 (e) Audiology corporation.
- 21 (1) Licensed speech-language pathologists.
- 22 (f) Nursing corporation.
- 23 (1) Licensed physicians and surgeons.
- 24 (2) Licensed doctors of podiatric medicine.
- 25 (3) Licensed psychologists.
- 26 (4) Licensed optometrists.
- 27 (5) Licensed marriage and family therapists.
- 28 (6) Licensed clinical social workers.
- 29 (7) Licensed physician assistants.
- 30 (8) Licensed chiropractors.
- 31 (9) Licensed acupuncturists.
- 32 (10) Naturopathic doctors.
- 33 (11) Licensed professional clinical counselors.
- 34 (g) Marriage and family therapist corporation.
- 35 (1) Licensed physicians and surgeons.
- 36 (2) Licensed psychologists.
- 37 (3) Licensed clinical social workers.
- 38 (4) Registered nurses.
- 39 (5) Licensed chiropractors.
- 40 (6) Licensed acupuncturists.

- 1 (7) Naturopathic doctors.
- 2 (8) Licensed professional clinical counselors.
- 3 (h) Licensed clinical social worker corporation.
- 4 (1) Licensed physicians and surgeons.
- 5 (2) Licensed psychologists.
- 6 (3) Licensed marriage and family therapists.
- 7 (4) Registered nurses.
- 8 (5) Licensed chiropractors.
- 9 (6) Licensed acupuncturists.
- 10 (7) Naturopathic doctors.
- 11 (8) Licensed professional clinical counselors.
- 12 (i) Physician assistants corporation.
- 13 (1) Licensed physicians and surgeons.
- 14 (2) Registered nurses.
- 15 (3) Licensed acupuncturists.
- 16 (4) Naturopathic doctors.
- 17 (j) Optometric corporation.
- 18 (1) Licensed physicians and surgeons.
- 19 (2) Licensed doctors of podiatric medicine.
- 20 (3) Licensed psychologists.
- 21 (4) Registered nurses.
- 22 (5) Licensed chiropractors.
- 23 (6) Licensed acupuncturists.
- 24 (7) Naturopathic doctors.
- 25 (k) Chiropractic corporation.
- 26 (1) Licensed physicians and surgeons.
- 27 (2) Licensed doctors of podiatric medicine.
- 28 (3) Licensed psychologists.
- 29 (4) Registered nurses.
- 30 (5) Licensed optometrists.
- 31 (6) Licensed marriage and family therapists.
- 32 (7) Licensed clinical social workers.
- 33 (8) Licensed acupuncturists.
- 34 (9) Naturopathic doctors.
- 35 (10) Licensed professional clinical counselors.
- 36 (11) *Licensed physical therapists.*
- 37 (12) *Licensed occupational therapists.*
- 38 (l) Acupuncture corporation.
- 39 (1) Licensed physicians and surgeons.
- 40 (2) Licensed doctors of podiatric medicine.

- 1 (3) Licensed psychologists.
- 2 (4) Registered nurses.
- 3 (5) Licensed optometrists.
- 4 (6) Licensed marriage and family therapists.
- 5 (7) Licensed clinical social workers.
- 6 (8) Licensed physician assistants.
- 7 (9) Licensed chiropractors.
- 8 (10) Naturopathic doctors.
- 9 (11) Licensed professional clinical counselors.
- 10 (m) Naturopathic doctor corporation.
- 11 (1) Licensed physicians and surgeons.
- 12 (2) Licensed psychologists.
- 13 (3) Registered nurses.
- 14 (4) Licensed physician assistants.
- 15 (5) Licensed chiropractors.
- 16 (6) Licensed acupuncturists.
- 17 (7) Licensed physical therapists.
- 18 (8) Licensed doctors of podiatric medicine.
- 19 (9) Licensed marriage and family therapists.
- 20 (10) Licensed clinical social workers.
- 21 (11) Licensed optometrists.
- 22 (12) Licensed professional clinical counselors.
- 23 (n) Dental corporation.
- 24 (1) Licensed physicians and surgeons.
- 25 (2) Dental assistants.
- 26 (3) Registered dental assistants.
- 27 (4) Registered dental assistants in extended functions.
- 28 (5) Registered dental hygienists.
- 29 (6) Registered dental hygienists in extended functions.
- 30 (7) Registered dental hygienists in alternative practice.
- 31 (o) Professional clinical counselor corporation.
- 32 (1) Licensed physicians and surgeons.
- 33 (2) Licensed psychologists.
- 34 (3) Licensed clinical social workers.
- 35 (4) Licensed marriage and family therapists.
- 36 (5) Registered nurses.
- 37 (6) Licensed chiropractors.
- 38 (7) Licensed acupuncturists.
- 39 (8) Naturopathic doctors.
- 40 (p) Physical therapy corporation.

- 1 (1) Licensed physicians and surgeons.
- 2 (2) Licensed doctors of podiatric medicine.
- 3 (3) Licensed acupuncturists.
- 4 (4) Naturopathic doctors.
- 5 (5) Licensed occupational therapists.
- 6 (6) Licensed speech-language pathologists.
- 7 (7) Licensed audiologists.
- 8 (8) Registered nurses.
- 9 (9) Licensed psychologists.
- 10 (10) Licensed physician assistants.
- 11 (11) *Licensed chiropractors.*

12 ~~SEC. 8.~~

13 *SEC. 9.* No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.